THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5154 OF 2006

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Dated: 16-03-2006

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Between

Mohd. Saleem,

S/o. Mohd. Yahiya,

R/o. H.No.17-2-714/28,

Madannapet, Hyderabad.

...PETITIONER

AND

The Assistant City Planner,

Circle No.1, Municipal Corporation

Of Hyderabad, Sardarmahal,

Charminar, Hyderabad and

another.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the first respondent dated 15.03.2006 in orally threatening him to hand over the premises Nos.16-1-523/5 situated at Sayeedabad, Hyderabad without following due process of law as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the learned standing counsel for the

respondent.

Learned counsel for the petitioner submits that the petitioner is the joint owner of the premises No.16-1-523/5 situated at Sayeedabad, Hyderabad by virtue to the property to his late father, who was the owner of the said premises by virtue of a registered sale deed dated 25.07.1998 vide Document No.14-7/1998 and the petitioner is running a kirana store in the said premises. While so,
the respondent – corporation has taken up the road-widening programme due to which the structures of the petitioner are affected to a depth of 25 feet.

The main grievance of the petitioner is that the respondents have not issued any notice before deciding to demolish the said structures and they are trying to demolish the structures for the purpose of widening the road without acquiring the property as contemplated under Chapter V of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') or under the Land Acquisition Act, without following due procedure prescribed under law, which action is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of a number of writ petitions directing the respondent not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the premises of the petitioner or dispossess him without following due process of law either under Section 146 or 147 of the Act or by way of private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No order as to costs.

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V. ESWARAIAH, J

March 16, 2006

Note: Furnish C.C. of the order by 17.03.2006

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